

SUBCONTRACT

SEP 25 2008

DBE, WBE, X Minority Req N/AVEN # 341849 LOC 1(2)Taxpayer Account No. 74-2274727CONT 38339Company No. 472Job No. 22055Subcontract No. Rev (A)THIS AGREEMENT, made this 18th day of June 20 08, by and between JL Steel Reinforcing, LLC("Subcontractor"), Address: 2409 Minnis Drive, Fort Worth, Texas 76117 (FedEx); P.O. Box 14709, Fort Worth, TX 76117, Telephone No.: 817-806-4476FAX No.: 817-806-4479, and Kiewit Louisiana Co., Massman Construction Co. and Traylor Bros., Inc. a Joint Venture dba Kiewit Massman Traylor Constructors, ("Contractor").Address: 13119 Old Denton Road, Fort Worth, TX 76177, Telephone No.: 817-337-7000, FAX No.: 817-337-7001

WITNESSETH:

WHEREAS, Contractor has entered into a contract dated the 24th day of April 20 08, ("Prime Contract") with Louisiana Department of Transportation and Development, ("Owner"), for the construction of Huey P. Long Bridge Widening Project LADOTD Project No. 005-10-0037, 006-01-0021, 006-02-0064, 006-25-0001, 006-30-0041, 063-03-0051 & 063-04-0035 ("Project").

at US-90, Jefferson Parish, Louisiana; and

WHEREAS, Subcontractor desires to perform a portion of such Prime Contract as described more fully below.

NOW THEREFORE, it is agreed as follows:

Article 1. Subcontractor agrees to furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform, the following described work ("Work") in accordance with the terms and conditions of the Prime Contract and this Subcontract:

See attached Article I Schedule of Values

Article 2. Contractor agrees to pay Subcontractor for the performance of this Subcontract as specified herein, the sum of Five Million Six Hundred Thirty-Two Thousand Six Hundred Seventy-Four Dollars and 93/100 Dollars (\$ 5,632,674.93) adjusted as required by differences between estimated and actual quantities for unit price Work items and subject to changes, additions and deductions, as hereinafter provided in the General Provisions. Contractor shall withhold 5 % of any partial payment as retainage until Final Payment. Retainage release upon completion & acceptance of JLSR's portion of the work by the Owner & Contractor. MJS. Article 3. The General Provisions, together with any Additional Provisions, are attached hereto and are made a part of this Subcontract.

See also Article 3 -- Additional Provisions MJS

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract by their proper officers or duly authorized agents.

Contractor
Kiewit Massman Traylor ConstructorsBy Keith N. Sasich
Keith N. Sasich
President, Kiewit Louisiana Co., Managing Party, Attorney-in-FactSubcontractor
JL Steel Reinforcing, LLCBy Michael C. Sproule, Pres.
Michael C. Sproule, Pres.
Title

White copy-Home office; Yellow copy- Subcontractor; Pink copy-Job office; Goldenrod copy-District office

EXHIBIT

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GENERAL PROVISIONS-SUBCONTRACT

Section 1. CONTRACT DOCUMENTS. (a) The term "Prime Contract" as used herein refers to all the general, supplementary and special conditions, drawings, specifications, amendments, modifications and all other documents forming or by reference made a part of the contract between Contractor and Owner.

(b) Subcontractor, by signing this Subcontract, acknowledges that it has independently assured itself that all of the Prime Contract documents have been available to it, and confirms that it has examined all such documents and agrees that all of the aforesaid Prime Contract documents shall be considered a part of this Subcontract by reference thereto. Subcontractor agrees to be bound to Contractor and Owner by the terms and provisions thereof so far as they apply to the Work, unless otherwise provided herein.

(c) In the event Subcontractor or Contractor is a partnership of two or more entities, the term "Subcontractor" and "Contractor" as used throughout this Subcontract shall include the partnership and each of the entities comprising the partnership.

Section 2. DELIVERY. Materials furnished but not installed by Subcontractor shall be delivered F.O.B. jobsite unless otherwise provided in the Additional Provisions of this Subcontract.

Section 3. PAYMENT. (a) Partial payments will be made to Subcontractor each month, computed on the basis of the prices set forth above and the actual quantity of the Work performed, as estimated by Owner, less retainage and less the aggregate of previous payments, but such partial payments shall not become due Subcontractor until ten (10) days after Contractor receives payment for such Work from Owner. If Contractor receives payment from Owner for less than the full value of materials delivered to the site but not yet incorporated into the Work, the amount due Subcontractor on account of such materials delivered to the site shall be proportionately reduced. No partial payment to Subcontractor shall operate as approval or acceptance of Work furnished hereunder.

(b) Upon complete performance of this Subcontract by Subcontractor, and final approval and acceptance of Subcontractor's Work by Owner, Contractor will make final payment to Subcontractor of the balance due to it under this Subcontract within a reasonable time after full payment of such Work has been received by Contractor from Owner.

(c) If at any time prior to final payment hereunder Owner reduces the retainage withheld from Contractor, Contractor may, in its sole discretion, with the consent of Subcontractor's surety, reduce retainage withheld from Subcontractor.

(d) Contractor may deduct from any amounts due or to become due Subcontractor any sum or sums owed by Subcontractor to Contractor. Contractor may also exercise the right of set-off under this Subcontract as to any sums owed by Subcontractor and/or its affiliates under any other contract with Contractor and/or its affiliates. In the event of any breach by Subcontractor of any provision or obligation of this Subcontract, or in the event of the assertion by other parties of any claim or lien, including but not limited to third party claims, levies or garnishments against Contractor or the premises arising out of Subcontractor's performance of this Subcontract, Contractor shall have the right to retain out of any payments due or to become due Subcontractor an amount sufficient to completely protect Contractor from any and all loss, damage or expense therefrom until the situation has been satisfactorily remedied or adjusted by Subcontractor.

Section 4. BONDING. (a) Subcontractor shall furnish Performance and Payment Bonds in an amount equal to the full Subcontract price. Such bonds shall be on forms furnished by, and with a surety satisfactory to, Contractor. Premiums for such bonds shall be paid by Subcontractor unless otherwise agreed upon in writing by the parties hereto.

(b) By signing this Subcontract, Subcontractor certifies that it has the bonding capacity and has made arrangements for furnishing said Performance and Payment Bonds to Contractor prior to beginning performance of the Work, and that the time required to prepare and furnish said bonds will not delay the start of the Work. Should Subcontractor proceed with the Work without first furnishing said Performance and Payment Bonds, whether or not such performance was permitted or encouraged by Contractor's job site representative, Subcontractor shall be deemed to have waived its right to partial payment and agrees to look to Contractor for payment of the amount due hereunder only upon furnishing said bonds or on completion of the entire Work and the furnishing of the releases described in Section 12. The furnishing of said bonds by Subcontractor is a condition precedent to Subcontractor's right to receive partial payment for Work performed hereunder. The waiver of partial payment shall not constitute an excuse or reason for nonperformance of this Subcontract by Subcontractor.

Section 5. CHANGES. (a) Contractor may at any time by written order of Contractor's authorized representative, and without notice to Subcontractor's sureties, make changes in, additions to and deletions from the Work to be performed under this Subcontract, and Subcontractor shall promptly proceed with the performance of this Subcontract as so changed.

(b) For changes in the Prime Contract that have been initiated by Owner, for acts or omissions of the Owner and for defects in the Prime Contract, Subcontractor shall submit any claims it may have, including notice thereof, for adjustment in the price, schedule or other provisions of the Subcontract to Contractor in writing in sufficient time and form to allow Contractor to process such claims within the time and in the manner provided for and in accordance with the applicable provisions of the Prime Contract. Subcontractor agrees that it will accept such adjustment, if any, received by Contractor from Owner as full satisfaction and discharge of such claim.

(c) For changes directed by Contractor which are not provided for under Subsection 5(b) above, Subcontractor shall be entitled to an adjustment in the Subcontract price, provided Subcontractor gives Contractor written notice of its intent to claim such an adjustment prior to performing such changed Work. Failure by Subcontractor to provide written notice as required herein for any changes to the work, or failure to provide written notice prior to performing any work or incurring any cost for which it believes it is entitled to claim additional compensation, whether or not directed by Contractor, shall be deemed to prejudice Contractor and shall constitute a waiver of any such claims by Subcontractor.

Section 6. PROSECUTION OF WORK. (a) Subcontractor shall furnish all labor, supervision, tools, equipment, materials and supplies necessary for the performance of this Subcontract in a proper, efficient and workmanlike manner. Subcontractor shall prosecute the Work undertaken in a prompt and diligent manner whenever such Work, or any part of it, becomes available, or at such other time or times as Contractor may direct, and so as to promote the general progress of the entire construction, and shall not, by delay or otherwise, interfere with or hinder the work of Contractor or any other subcontractor. Any materials that are to be furnished by Subcontractor hereunder shall be furnished in sufficient time to enable Subcontractor to perform and complete its Work within the time or times provided for herein. The time of performance of the Work by Subcontractor is of the essence, and Subcontractor agrees to reimburse Contractor for any and all liquidated or actual damages that may be assessed by Owner against Contractor which are attributable to or caused by Subcontractor's failure to perform the Work required by this Subcontract within the time fixed or in the manner provided for herein. Subcontractor also agrees to pay to Contractor any increased costs or other damages Contractor may sustain by reason of delay by Subcontractor, whether or not liquidated or actual damages are assessed by Owner. The payment of such damages shall not release Subcontractor from its obligation to otherwise fully perform this Subcontract. Upon written request by Contractor, Subcontractor shall furnish to Contractor such evidence as Contractor may require relating to Subcontractor's ability to fully perform this Subcontract in the manner and within the time specified herein.

(b) In the event Subcontractor fails to comply or becomes disabled from complying with the provisions herein as to character or time of

performance, including but not limited to payment for all materials furnished and Work and labor performed under this Subcontract, and the failure is not corrected within five (5) calendar days after written request by Contractor to Subcontractor, Contractor may without prejudice to any other right or remedy, terminate this Subcontract for default and complete the performance of this Subcontract, by further subcontract or otherwise, at the expense of Subcontractor.

(c) As an alternative to terminating the Subcontract as provided in Subsection 6(b) above, and upon 48 hours written notice, Contractor may take over the Work or any portion thereof and furnish such materials and/or employ such workers as may be necessary to remedy the situation at the expense of Subcontractor. It is specifically agreed that Contractor may, in addition to any other rights it may have under this Subsection 6(c) or under Subsection 6(b) above, take possession of the premises and of all materials, tools and equipment of Subcontractor at the Project site for the purpose of performing such Work.

(d) Subcontractor shall keep on the Project site, during the progress of the Work, a competent superintendent who shall be the authorized representative of Subcontractor. Directions and communications to the superintendent from Contractor in connection with the Work shall be treated as directions and communication to Subcontractor.

(e) It is recognized that if Subcontractor becomes insolvent, or institutes or has instituted against it bankruptcy proceedings, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, such event or events could impair or frustrate Subcontractor's performance of this Subcontract. Accordingly, it is agreed that upon the occurrence of any such event, Contractor shall be entitled to request of Subcontractor or its receiver or court-appointed successor adequate assurances of future performance. Pending receipt of adequate assurances of performance and actual performance in accordance therewith, Contractor shall be entitled to take over the Work pursuant to the provisions of Subsection 6(c) above following notice to Subcontractor.

(f) Subcontractor agrees that Contractor may, on five (5) calendar days written notice to Subcontractor, terminate this Subcontract in whole or in part for Contractor's convenience. Subcontractor's remedy for termination for convenience is limited to the following: (1) Subcontractor shall be entitled to be paid pursuant to the prices set forth herein for all Work properly performed prior to termination; (2) Partial payment shall be made for lump sum items of work on the basis of the percent complete of such items at the time of termination; and (3) Subcontractor shall be reimbursed for reasonable close-out costs. Subcontractor shall not be entitled to any compensation for loss of anticipated profits or unallocated overhead, nor shall Contractor be liable to Subcontractor for consequential damages, whether under this Section or otherwise arising out of or related to this Subcontract.

(g) If the Prime Contract, or any portion thereof that includes Subcontractor's scope of work, is terminated for the convenience of Owner, Subcontractor's remedy for termination shall be as set forth in the Prime Contract, and Subcontractor shall not be entitled to receive any greater amount than Contractor recovers from Owner on behalf of Subcontractor for such termination.

(h) Upon a determination by a court of competent jurisdiction that termination of Subcontractor or its successor in interest pursuant to any provision of this Subcontract was wrongful, such termination will be deemed converted to a termination for convenience and the Subcontractor's remedies shall be limited to those set forth in Subsection 6(f).

Section 7. DELAYS. (a) In the event Subcontractor's Performance of this Subcontract is delayed or interfered with by acts of Owner, Contractor or other subcontractors, or by other events for which Subcontractor is entitled to a time extension under the terms of the Prime Contract, Subcontractor may request an extension of the time for the performance of same, as hereinafter provided, but shall not be entitled to any increase in the Subcontract price or to damages or additional compensation as a consequence of such delay or interference, except to the extent that the Prime Contract entitles Contractor to compensation for such delay, and then only to the extent of any amounts that Contractor may, on behalf of Subcontractor, recover from Owner for such delay.

(b) No allowance for an extension of time for any cause whatsoever shall be claimed by, or granted to, Subcontractor unless Subcontractor shall have made written request upon Contractor for such extension within forty-eight (48) hours after the event giving rise to such request or, if the Prime Contract provides for a shorter period, within sufficient time to permit Contractor to give notice to Owner within the time allowed by the Prime Contract for such notice.

(c) No allowance of an extension of time shall, in any event, be made to Subcontractor for delay by Subcontractor in preparing drawings or in securing approval of Owner thereto when such drawings are not properly prepared or when Subcontractor, by the exercise of reasonable diligence and judgment, could have anticipated and avoided the delay.

Section 8. LABOR. Subcontractor, in connection with all Work covered by this Subcontract, shall comply with and be bound by any labor agreements executed by Contractor or on Contractor's behalf. Failure at any time to comply with any of the provisions of such agreements will, at the option of Contractor, be cause for immediate termination of this Subcontract for default, and Contractor shall have all of the rights contained in Section 6 with regard to such termination. If, by reason of strikes, picketing or disputes of any nature between Subcontractor and any individual, group or organization, Subcontractor should be persistently, repeatedly, or for a period of five (5) consecutive days, unable to supply enough properly skilled workers or proper materials to execute the Work defined in this Subcontract, Contractor may terminate Subcontractor for default and proceed in accordance with Section 6 hereof.

Section 9. APPROVALS. All drawings of Subcontractor shall be submitted through Contractor for approval of Owner, and all other communications between Subcontractor and Owner with respect to the Work shall be transmitted through Contractor.

Section 10. INSURANCE. Prior to commencement of Work, Subcontractor shall procure, and at all times thereafter maintain with insurers acceptable to Contractor and having an A.M. Best's rating of A-VII or better, the following minimum insurance:

(a) Workers' Compensation ("WC") coverage to statutory limits required where the work is being performed and Employer's Liability ("EL") coverage of not less than \$1,000,000 each accident. Where applicable, coverage must include U.S. Longshore and Harbor Workers' Compensation Act, Outer Continental Shelf Lands Act, Jones Act, and Maritime Employer's Liability coverage of not less than \$1,000,000 each accident. If Subcontractor utilizes personnel that are not its own employees, including but not limited to personnel from a professional employer organization, an employee leasing company, or a similar service ("PEO"), Subcontractor shall provide a primary WC policy in which Subcontractor is a named insured.

(b) Commercial General Liability ("CGL") of not less than \$2,000,000 each occurrence/aggregate. CGL shall include coverage extensions for: (1) contractual liability, (2) products/completed operations, (3) X.C.U. hazards as applicable, (4) independent contractors.

(c) Automobile Liability ("AL") of not less than \$2,000,000 each accident, covering "any auto," or covering all owned, non-owned and hired vehicles used in its operations.

If the terms of the Prime Contract require higher limits or additional coverage, Contractor reserves the right to require Subcontractor to provide at Subcontractor's expense such higher limits, additional coverage, or both. Subcontractor's insurance shall be primary and non-contributory to any other insurance maintained by Contractor, Owner and other parties as required in the Prime Contract.

Subcontractor shall cause its CGL, AL, and all excess/umbrella liability insurers to name as additional insureds the Contractor, the Owner, and other parties as required in the Prime Contract, to the maximum limits of liability coverage carried by Subcontractor. Subcontractor shall cause its WC policy to contain a waiver of subrogation in favor of Contractor, Owner and other parties as required in the Prime Contract.

Subcontractor shall provide Contractor with certificates of insurance establishing compliance with the above requirements prior to beginning any work under this Subcontract. The certificates shall provide for 30 days written notice to Contractor in the event of policy cancellation.

Subcontractor shall cause its subcontractors to procure and maintain the same insurance as outlined above. If requested to do so, Subcontractor shall obtain certificates of insurance from its subcontractors and deliver them to Contractor.

These insurance requirements shall support, but shall not limit Subcontractor's duties, obligations, and liabilities under any other provision of this Subcontract.

Section 11. INDEMNIFICATION. To the fullest extent permitted by law, Subcontractor specifically obligates itself to Contractor, Contractor's surety, Owner and any other party required to be indemnified under the Prime Contract, jointly and severally, as follows:

(a) To defend and indemnify them against and save them harmless from ~~any and all~~ claims, suits, liability, expense or damage for any alleged or actual infringement or violation of any patent or patented right, arising in connection with this Subcontract and anything done thereunder.

(b) To defend and indemnify them against and save them harmless from any and all claims, suits or liability for damages to property including loss of use, injuries to persons including death, and from ~~any other~~ claims, suits or liability ("Occurrence") arising from Subcontractor's operations regardless of fault. Subcontractor's obligation extends to ~~any Occurrence, whether or not caused in part by the active or passive negligence or other fault of~~ ^{THE} party to be indemnified, other than the sole negligence or willful misconduct of the party to be indemnified. Subcontractor's obligation extends to the acts or omissions of its subcontractors, suppliers, officers, agents, employees, or servants.

(c) To pay for all materials furnished and Work and labor performed under this Subcontract, and to satisfy Contractor thereupon whenever demand is made, and to defend and indemnify them against and save them and the premises harmless from any and all claims, suits or liens therefor by others than Subcontractor.

(d) To obtain and pay for all permits, licenses and official inspections necessary for its Work, and to comply with all laws, ordinances and regulations bearing on the Work and the conduct thereof.

(e) To warrant and guarantee the Work covered by this Subcontract, and to make good, at its own expense, any defect in materials or workmanship which may occur or develop prior to Contractor's release from responsibility to Owner therefor.

(f) To assume toward Contractor all obligations and responsibilities that Contractor assumes toward Owner and others, as set forth in the Prime Contract, insofar as applicable, generally or specifically, to Subcontractor's Work.

To the fullest extent permitted by law, Subcontractor shall defend and indemnify Contractor, Contractor's surety, Owner and other indemnified parties against, and save them harmless from, ~~any and all~~ loss, damage, costs, expenses and attorneys' fees suffered or incurred on account of any breach of any provision or covenant of this Subcontract. Notwithstanding the above, Contractor at its sole discretion reserves the right to defend any one or all of the following: Owner, other indemnified parties, Contractor's surety and itself. Contractor's election to defend shall not in any way limit Subcontractor's responsibility to indemnify and hold harmless as provided above.

Section 12. LIENS AND CLAIMS. Subcontractor shall, as and when requested, furnish evidence satisfactory to Contractor and Owner that all amounts due for labor and material furnished Subcontractor in connection with performance of this Subcontract have been paid, including union health, welfare and pension fund payments and payroll taxes. Such evidence shall be furnished in such form and manner as requested by Contractor, and all statements relative thereto shall, if called for by Contractor, be made by sworn affidavit. Subcontractor shall furnish to Contractor releases of bond rights and lien rights by persons who have furnished labor, material or other things in the performance of this Subcontract, it being agreed that payment of money otherwise due Subcontractor need not be made by Contractor until such releases are furnished. Subcontractor shall deliver its Work free from all claims, encumbrances and liens. If the Prime Contract requires that Contractor waive its right to place liens on the Project or any part thereof, Subcontractor hereby waives its right to place liens on the Project and will cause its suppliers, materialmen, mechanics and subcontractors to waive their right to place liens on the Project.

Section 13. POSSESSION PRIOR TO COMPLETION. Whenever it may be useful or necessary for Contractor to do so, Contractor shall be permitted to occupy and/or use any portion of the Work which has been either partially or fully completed by Subcontractor before final inspection and acceptance thereof by Owner, but such use and/or occupation shall not relieve Subcontractor of its guarantee of said Work, nor of its obligation to make good at its own expense any defect in materials and/or workmanship which may occur or develop prior to Contractor's release from responsibility to Owner.

Section 14. OTHER CONTRACTS. It is understood and agreed that the Work provided for in this Subcontract constitutes only a part of the work being performed for Owner by Contractor and other subcontractors. Subcontractor, therefore, agrees to perform the Work in such a manner that it will not injure, damage or delay any other Work performed by Contractor or any other subcontractor or supplier, and further agrees to pay or reimburse Contractor for any additional costs, damage or delay that may be caused to such other work of Contractor, subcontractors or suppliers by Subcontractor, its agents or employees.

Section 15. INDEPENDENT CONTRACTOR. Subcontractor specifically agrees that it now is, and will remain during the performance of this Subcontract, an independent contractor.

Section 16. COMPLIANCE WITH LAW. Subcontractor agrees to fully comply with all applicable laws, ordinances and regulations.

Section 17. SAFETY. Subcontractor shall take all reasonable safety precautions pertaining to its Work and the conduct thereof. Without limiting the generality of the foregoing, it shall comply with all applicable laws, ordinances, rules, regulations and orders issued by any public or governmental body or authority, whether federal or otherwise, including, but not limited to, occupational safety and health legislation and, in addition, the safety measures called for by Contractor.

Section 18. PROTECTION OF WORK. Subcontractor specifically agrees that it is responsible for the protection of its Work until final completion and acceptance thereof by Owner, and that Subcontractor will make good or replace, at no expense to Contractor or Owner, any damage of its Work which occurs prior to said final acceptance.

Section 19. DISPUTES. (a) In the event of any request or claim by Subcontractor seeking additional time or compensation which arises out of or is related to the acts or omissions of the Owner, changes to or defects in the Prime Contract, or any other claim for which the Owner may have responsibility, Subcontractor agrees to be bound to Contractor to the same extent that Contractor is bound to Owner, both by the terms of the Prime Contract and by any and all decisions or determinations made thereunder by the party, board or court as authorized in the Prime Contract for resolving such claims. In the event the Prime Contract contains a provision, hereinafter called a "Disputes" clause, specifying a procedure for resolving claims, then Contractor agrees to invoke, at Subcontractor's request, such Disputes clause on behalf of Subcontractor, and to allow Subcontractor to present such claims to Owner in Contractor's name, provided Subcontractor cooperates fully with Contractor in the presentation of such claims. Subcontractor shall have full responsibility for the preparation and presentation of its claims, including timely notice to allow Contractor to comply with the terms of the Prime Contract, and shall bear all expense related thereto, including attorneys' fees. Subcontractor agrees to be bound by any final determination as rendered on its claim, whether pursuant to any such Disputes clause or otherwise, and Subcontractor shall in no event be entitled to receive any greater amount from Contractor than Contractor is entitled to and actually does receive from Owner on account of Subcontractor's claims, less any markups or costs incurred by Contractor and to which Contractor is otherwise entitled, and Subcontractor agrees that

it will accept such amount, if any, received by Contractor from Owner as full satisfaction and discharge of such claims. Subcontractor agrees that it will not take any other action with respect to any such claims. In the event Subcontractor is not diligent in the pursuit of its claims, or otherwise refuses to cooperate with Contractor as provided herein, then in its sole discretion Contractor may consider such claims to be waived by Subcontractor, or may prepare and present such claims on behalf of Subcontractor.

(b) In the event Owner requires Contractor to certify Subcontractor's claim, Subcontractor shall prepare and certify to Contractor any such claim in accordance with the requirements of the Owner and the Prime Contract. Subcontractor hereby agrees to defend and indemnify Contractor and save Contractor harmless from any and all liability arising out of or related to such Subcontractor claims and any certification furnished thereon.

(c) Subcontractor shall be bound by Contractor's determination, made in good faith, as to apportionment of any amounts received by Contractor from Owner on behalf of Subcontractor and other claimants, including Contractor, whose work is affected by any act or omission of the Owner.

(d) Should a dispute arise as to the proper interpretation of this Subcontract, or as to the acceptability of Work or material performed or furnished hereunder, which concerns the parties hereto only, or Subcontractor and other subcontractors or suppliers, but not Owner, ~~the same shall be decided by Contractor whose decision thereon shall be final and binding~~. *MS. VS.*

(e) Subcontractor shall proceed diligently with the Work, pending final determination pursuant to any Disputes clause or pursuant to any other action taken with respect to any claims.

Section 20. ATTORNEY FEES. In the event either party institutes suit in court against the other party or against the surety of such party, in connection with any disputed matter arising under this Subcontract, the prevailing party shall be entitled to recover all costs, expenses and attorney fees in addition to any other relief granted by the court. Subcontractor further agrees to waive any right to trial by jury in any dispute between Contractor and Subcontractor.

Section 21. TAXES. Subcontractor shall pay all taxes, licenses and fees of every nature which may be imposed or charged by any governmental authority upon the labor, material, or other things used in the performance of the Work or upon the transaction between Contractor and Subcontractor.

Section 22. CONTRACTOR'S EQUIPMENT. In the event that Subcontractor, by rental, loan or otherwise, makes use of any of Contractor's equipment, scaffolding, or other appliances, Subcontractor agrees to accept such "as is", and further agrees that such use shall be at the sole risk of Subcontractor. Subcontractor agrees to defend, indemnify and hold Contractor harmless against all claims of every nature arising from its use thereof.

Section 23. FURNISHED MATERIAL. In the event that Contractor or Owner, or their suppliers or subcontractors, elect to furnish material to Subcontractor for use in connection with this Subcontract, then the cost of handling, storing and installing such material shall be considered as included in the Subcontract price. Subcontractor shall be responsible for all such materials upon delivery to it, whether delivered F.O.B. point of origin or F.O.B. job-site (except that any transportation charges paid by Subcontractor, in the event of delivery F.O.B. point of origin, shall be reimbursed to Subcontractor), and Subcontractor shall pay all demurrage and storage charges which accrue after delivery. Furnished material lost or damaged after delivery, from any cause whatsoever, shall be replaced by or at the expense of Subcontractor. Subcontractor shall, within forty-eight (48) hours after delivery of furnished material, inspect the same and immediately report in writing to Contractor any shortages, damages or defects therein which are reasonably observable by proper inspection. Failure to inspect and report as specified shall be treated as unqualified acceptance by Subcontractor of the material involved. *CONTRACTOR AND SUBCONTRACTOR WILL INSPECT ALL MATERIALS THAT ARE DELIVERED TO ENSURE THAT PROPER & CORRECT MATERIALS ARE DELIVERED.* *MS.*

Section 24. QUALITY. Subcontractor agrees to perform the Work in strict compliance with the requirements of the Prime Contract, including all provisions relating to quality of the Work. Subcontractor agrees to provide all necessary documentation to demonstrate and support such compliance. If required by Contractor or the Prime Contract, Subcontractor shall prepare and implement a project specific quality plan, acceptable to Contractor and consistent with Contractor's Quality Program.

Section 25. EQUAL OPPORTUNITY. If the Prime Contract contains any provision which prohibits discrimination on the basis of race, color, religion, sex, or national origin, or if any law, regulation or order has any application thereto and is applicable to this Subcontract, then Subcontractor hereby agrees to comply with such provision, law, regulation or order. In the event that any such provision, law, regulation or order requires the physical attachment of specific wording to this Subcontract, then such attachment shall be furnished by Contractor and shall be considered a part of this Subcontract by reference thereto or shall be physically attached thereto as called for by Contractor.

Section 26. OWNER'S REPRESENTATIVE. The term "Owner" as used herein shall include the Owner's Representative, its design engineer, architect or any person or entity appointed by Owner to administer the work of Contractor on behalf of Owner.

Section 27. ASSIGNMENT. Subcontractor shall obtain the written consent of Contractor prior to assigning or subletting any of the Work, in whole or in part. Subcontractor may assign the proceeds of the Work after providing adequate assurances to Contractor that all its laborers, suppliers and other creditors for the Work will be paid, and upon obtaining the consent of Subcontractor's surety and the acknowledgment of the assignee on forms provided by Contractor.

Section 28. PRIOR UNDERSTANDINGS OR REPRESENTATIONS. Contractor assumes no responsibility for any understandings or representations made by any of its officers or agents prior to the execution of this Subcontract, unless such understandings or representations by Contractor are expressly set forth in this Subcontract. Unless specifically referenced herein and attached hereto, no proposals or terms of any nature submitted by Subcontractor prior to the execution of this Subcontract shall be of any effect.

Section 29. THIRD PARTIES. Contractor and Subcontractor enter into this Subcontract for their sole benefit and enforcement. No other party may claim a benefit from this Subcontract, or seek to enforce the terms and conditions of this Subcontract, except by written assignment approved by both Contractor and Subcontractor.

Section 30. SEVERABILITY AND WAIVER. The partial or complete invalidity of any one or more provisions of this Subcontract shall not affect the validity or continuing force and effect of any other provision. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Subcontract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

Section 31. CAPTIONS. The captions at the beginning of each Section are for convenience only and are to be given no weight in construing the provisions of this Subcontract.

Section 32. NOTICES. All notices shall be in writing addressed to the parties at the addresses set out in this Subcontract unless subsequently changed in conformance with this notice provision, and shall be considered as delivered on the third business day after the date of mailing if sent certified mail or when received in all other cases, including telecopy or other printed electronic medium or personal delivery.

PRACTICE SITE. ANY DISPUTES OR DISCREPANCIES OR CLAIMS BETWEEN THE PRINCIPALS OR THE SUBCONTRACTORS MAY BE REINFORCED BY THE SUBCONTRACT.

ARTICLE 1

Project: Huey P. Long Bridge Widening (Westbank & Eastbank Approaches & Main Bridge Deck Widening)
Project No: LADOT Project Nos. 005-10-0037, 006-01-0021, 006-02-0064,
006-25-0001, 006-30-0041, 063-03-0051 & 063-04-0035
Subcontractor: JL Steel Reinforcing, LLC
Contractor: Kiewit Massman Traylor Constructors

SCHEDULE OF VALUES (Rev A)

Bid Item	Item Description	Quantity	U/M	Unit Price	Total
806-01	Install Bridge Reinforcing Steel	24,805,000.00	LBS	\$0.204	\$5,060,220.00
814-01-J	Pre-Assemble and Pre-Tie Drilled Shaft Reinforcing Steel	1,054,522.00	LBS	\$0.173	\$182,432.31
806-01	Install Mechanical Couplers	39,341.00	EA	\$7.798	\$306,781.12
	Supply all tie wire and cutting equipment to install per project plans.				- INCL.
	Performance & Payment Bonds	1	LS	\$83,241.50	\$83,241.50
	Note: 1/ Quantities are approximate and subject to final adjustment				
	Amount of Contract				\$5,632,674.93

ARTICLE 3

Project: Huey P. Long Bridge Widening (Westbank & Eastbank Approached and Main Bridge Deck Widening)
Project No. LADOT&D Nos. 005-10-0037, 006-01-0021, 006-02-0064, 006-25-0001, 006-30-0041, 063-03-0051 & 063-04-0035
Subcontractor: JL Steel Reinforcing, LLC
Contractor: Kiewit Massman Traylor Constructors

ADDITIONAL PROVISIONS (Rev A)

ALL PROVISIONS OF THE PRIME CONTRACT ARE HEREBY MADE A PART OF THIS SUBCONTRACT.

- A. **REQUIRED CONTRACT PROVISIONS:** The Prime Contract between Louisiana Department of Transportation & Development (hereinafter referred to as Owner) and Kiewit Massman Traylor Constructors (hereinafter referred to as Contractor) and all terms and provisions of the Prime Contract and addenda shall be considered a part of this Subcontract by reference thereto. Subcontractor agrees to be bound to Contractor and Owner by the terms and provisions thereof so far as they apply to the Work, unless otherwise provided herein. Without limitation, the following Prime Contract provisions are specifically incorporated by reference:
1. Transportation Infrastructure Model for Economic Development (TIMED) Project (06/05): (Pages D-1 & D-2 of the Special Provisions). "At least eighty percent of the employees employed on any TIMED Project must be Louisiana residents." Subcontractor's workforce will comply with this section of the Prime Contract.
 2. Protection of Levees: (Pages D-2 through D-4 of the Special Provisions). "The East Jefferson Levee District, the West Jefferson Levee District, the U.S. Army Corp of Engineers and LADOTD have control, jurisdiction and permitting authority over activities impacting the Mississippi River Levee...The contractor shall at all times during the prosecution of work which affect the levees be governed by rules and regulations of these agencies."
- B. **ESCALATION:** All price escalations are included in JL Steel Reinforcing, LLC.'s proposal. JL Steel Reinforcing, LLC will not seek any additional price escalation unless it is provided for in the Prime Contract or agreed to in the form of a change order issued by the Owner under the terms of the Prime Contract.
- C. **SUBMITTALS & CORRESPONDENCE:**
1. All required submittals shall be furnished by the Subcontractor to the

- Contractor to allow sufficient time for both Contractor review and Owner review in accordance with the Prime Contract.
2. The Contractor will provide the Subcontractor with a single point of contact (Contract Coordinator) within the Contractor's organization. All invoices, correspondence and other coordination between the Subcontractor and Contractor shall be through the Contract Coordinator.
 3. Subcontractor shall not communicate directly with Owner. All submittals, shop drawings and related correspondence shall be submitted to the Contract Coordinator.
- D. **TOXIC AND HAZARDOUS SUBSTANCE:** In addition to the compliance with all waste handling requirements of the Prime Contract and Contractor, Subcontractor shall keep all toxic and hazardous substances segregated from other job site trash and waste, and such substances shall be legally disposed of by Subcontractor off the site. The substances include, but are not limited to: solvents, petroleum products, paints, and epoxies. In no event shall such substances be placed in Contractor's trash containers. Subcontractor shall defend, indemnify and hold harmless Contractor from Subcontractor's breach of these requirements.
- E. **CLEANUP:** The work areas used by the Subcontractor shall be approved by the Contractor and are to be maintained in a clean and safe working condition. The following rules are to be strictly adhered to:
1. All materials brought into the jobsite shall be placed in an area designated by the Contractor in an orderly manner, including provisions for ingress and egress at all times.
 2. All debris must be removed from the work area daily or as mutually agreed.
 3. Comply with all applicable fire and safety regulations.
 4. Should the Subcontractor fail to comply with the above requirements, the Contractor may arrange corrective action at the expense of the Subcontractor.
- F. **FORCE ACCOUNT:** When payment for extra work is made on a Force Account basis, the Subcontractor will be paid for the actual cost of all labor and materials as shown by expenditure records and the amount earned for equipment rental (as paid by the Owner), plus markup as provided by the Prime Contract.
- G. **CONTRACTOR DIRECTED EXTRA WORK:** Should extra work be performed by Subcontractor for the Contractor (exclusive of extra work requested by and paid for by the Owner), that work shall be performed on a "time and material" basis with charges being made only for actual direct costs incurred. No extra work shall be performed by Subcontractor without written authorization of the Contractor.
- H. **DELIVERABLES:** Retained percentage, and/or final payment will not be released until such time as all final drawings, material certifications, certified payroll, operating manuals and/or maintenance manuals or other items required by the

Prime Contract Documents have been furnished by the Subcontractor to Contractor and they have been accepted and/or approved by the Owner.

- I. **JOB SITE MEETINGS:** The Subcontractor's jobsite representative will be required to attend weekly safety meetings, monthly mass safety meetings and weekly and/or daily schedule meetings. He will be advised of the time and place of the meetings by the Contractor Coordinator, if JL Steel Reinforcing, LLC forces are on-site.
- J. **SAFETY:** Before work is performed on the site, the Subcontractor will be required to attend a pre-job start-up meeting to review the Subcontractor's written work plan and job specific safety plan with the Contractor's representatives.

This project is designated a "Hard Hat" project. All personnel must wear long trousers, shirts with over the shoulder sleeves, suitable work boots that cover the ankle, safety glasses, and seat belts. Employees refusing to follow this policy will be removed from the job. This will in no way relieve the Subcontractor of its obligation to perform the contract work. Subcontractor will also participate in "2 Minute Safety Minders" and "Stretch and Flex" before the start of each shift. Subcontractor will be required to hold and document weekly safety "Toolbox Meetings" with their crews and conform to the Contractor's job safety plan.

Whenever the Contractor becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Owner personnel, the Contractor may notify the Subcontractor verbally, with written confirmation, and request immediate corrective action. This verbal notice, when delivered to the Subcontractor or the Subcontractor's representative at the work site, shall be deemed sufficient notice of noncompliance and Subcontractor shall immediately take corrective action. If the Subcontractor fails or refuses to immediately take corrective action, the Contractor may issue an order stopping all or part of the Work until satisfactory corrective action has been taken. The Subcontractor shall not be entitled to any equitable adjustment of the Subcontract price or time extension due to on any stop work order issued under this clause.

Subcontractor shall insert this clause, including this paragraph with appropriate changes in the designation of the parties, in lower-tier contracts.

- K. **QUALITY CONTROL:** With respect to all work performed and/or materials furnished under this Subcontract, the Subcontractor shall provide and maintain an effective Quality Control system that complies in every respect to the requirements of the Prime Contract.
- L. **SUBCONTRACTOR QUALITY PLAN:** Prior to commencing work, the Subcontractor shall submit a quality plan to the Contractor. The quality plan will contain the following minimum requirements:
 1. The Subcontractor will prepare written work package(s) for all of the

Subcontractor's major operation(s) that include(s): a step-by-step procedure for the operation; a hazard analysis; a quality analysis that outlines potential quality risks and plan to minimize these risks, tolerances and witness and / or hold points in their work that requires inspection by the Contractor and / or the Owner; and any other information that is essential to successfully completing the Work. Work packages will be reviewed with the Contractor prior to starting work covered by the work package. This review is for informational purposes only and in no way relieves the Subcontractor from completing their Work in accordance with the requirements of the Subcontract. The Subcontractor will review the work package with all members of its crew(s) prior to commencing work or as new members are assigned.

2. The Subcontractor will conduct a pre-activity meeting for each major operation of work. The purpose of this meeting is for the Subcontractor to review their work package and overall approach to the work with the Contractor and the Owner.
3. The Subcontractor will prepare a list of required submittals that are required of the Subcontractor by the Prime Contract documents. The list will include a plan for ensuring that submittals are submitted to the Contractor with enough time for them to be reviewed prior to submission to the Owner. This review is for the Subcontractor's benefit only and in no way relieves Subcontractor from satisfying the terms of the Subcontract. Subcontractor will correct any deficiencies noted by Contractor or Owner immediately and resubmit through the Contractor.
4. The Subcontractor will list all of the testing, inspection and acceptance criteria for its Work regardless of whether the Subcontractor, Contractor or Owner is responsible to perform such testing inspection, and acceptance criteria.
5. The Subcontractor will include a plan for reporting any work that does not conform to the Prime Contract requirements to the Contractor immediately upon identification of such work. For any non-conformance that Subcontractor estimates will cost \$10,000 or more to repair, the Subcontractor will submit, in writing, a quality incident report to the Contractor within 7 calendar days. The quality incident report will include the following information (at minimum): a brief description of the incident (including the date and location that it happened), the root cause of the incident, a plan to bring the item into conformance and a plan to prevent future occurrence of the same or similar incidents.

The Subcontractor will not be permitted to start work on the Project until its quality plan has been accepted by the Contractor. The Contractor from time to time, at its sole discretion, may conduct audits of the Subcontractor's compliance with Subcontractor's quality plan. The Subcontractor shall reasonably cooperate in any such audit.

Subcontractor Punchlist/Close-Out Plan: The Subcontractor agrees that it shall develop a "Punchlist/Close-Out" plan no later than the time the

Subcontractor achieves 50% completion of the Work. Final Payment will not be released until the Subcontractor has completed all QC/QA requirements of this Subcontract. Subcontractor must deliver all warranties required in quadruplicate (four copies) to Contractor no later than 7 days after Subcontractor has achieved substantial completion of the Work.

- M. **CERTIFIED PAYROLL:** In addition to any other provisions of this Subcontract, it is required that the Subcontractor make timely submission of Certified payrolls are to be submitted weekly for all labor in connection with the Work to the Contractor.

- N. **DRUG / ALCOHOL TESTING:** Contractor has developed a drug and alcohol-testing program. A copy of the testing program that has been adopted by the Contractor is available upon request. It is required that the Subcontractor participate in a program to cooperate in achieving a drug-free and alcohol-free workplace. Cost to be paid for by the Contractor.

- O. **POLICY:** Subcontractor agrees to follow all of the Contractor's job and company policies regarding safety, quality, shoring, fall protection, and tie-off procedures.

- P. **INSURANCE:** Without limiting the generality of Section 10 of the General Provisions of this Contract such coverage shall include: a policy endorsed to include Kiewit Massman Traylor Constructors, The Louisiana Department of Transportation & Development including its officers, officials, agents (excluding agents who are design professionals), and Louisiana TIMED Managers, who shall be named as additional insured on the commercial general liability policy, excess, and automobile liability policies. Additionally, a waiver of subrogation in favor of Kiewit Massman Traylor Constructors, The Louisiana Department of Transportation and Development and the Louisiana TIMED Managers with regards to workers' compensation.

- Q. **BOND:** As stated in Section 4 (BONDING), of the General Provisions – Subcontract, the Subcontractor shall furnish a Performance and Payment Bond in an amount equal to the full Subcontract price. Premiums for such bonds are included in the prices identified in the Subcontract's ARTICLE 1 – Schedule of Values -. Such bonds shall be on forms provided by, and with a surety satisfactory to, Contractor.

- R. **MATERIAL ON HAND PAYMENT:** KMTC will provide payment per the project specifications for material on hand payment from the Owner. KMTC will make payment within ten (10) days following KMTC's receipt of payment from the Owner covering a given application for payment.

- S. **SCOPE OF WORK:** This section defines specific inclusions.

1. All labor, tie wire, and cutting equipment necessary to install rebar per the terms of the Prime Contract.
2. Installation of rebar for end bents and intermediate bents.
3. Installation of rebar for deck and approach slabs including embedded bars.
4. Pre-assemble rebar for deck diaphragms.
5. Pre-assemble and install rebar for drilled shafts.
6. Supply torque wrench for installation of mechanical couplers.
7. Subcontractor to maintain all work areas in a neat and organized manner. All trash, rubbish, dunnage, extra tie wire, etc. to be placed into proper trash receptacles daily. Should the Subcontractor maintain his work areas as stated above, the Contractor will have his crews perform the necessary corrective actions. The Contractor will back charge the Subcontractor all cost of any such effort.
8. Subcontractor to block and brace all rebar off of the ground with appropriate dunnage. No rebar should be placed in contact with the ground. Contractor to supply sufficient dunnage.

T. **EXCLUSIONS:**

1. Contractor shall provide hoisting equipment & operator for unloading, distribution and placement of materials. Subcontractor shall have an on-site superintendent attend all Contractors' daily and weekly schedule meetings. All equipment needed of the Subcontractor will be communicated twenty-four (24) hours in advance, if JL Steel Reinforcing, LLC forces present.
2. Contractor shall provide dimensional control for proper placement of rebar.
3. Contractor shall provide adequate means of fall protection when feasible. Subcontractor shall provide any and all fall protection equipment for its own forces when jobsite conditions warrant its use. Subcontractor shall comply with all OSHA and jobsite fall protection policies.
4. Setting of pre-assembled diaphragms and drill shafts.
5. Contractor shall provide reasonable accessories and/or support steel for proper positioning of rebar.
6. CSL tubs for drill shafts.
7. Any welding.
8. Long Shoreman's and Railroad Insurance.

Kiewit Massman Taylor Constructors

By: Keith N. Sasich

Keith N. Sasich
President, Kiewit Louisiana Co.
Managing Party
Attorney-in-Fact

JL Steel Reinforcing, LLC

By: Michael C. LaPointe
Company Representative

CERTIFICATE OF NONDISCRIMINATION IN EMPLOYMENT

Certification with regard to the performance of previous contracts or subcontracts subject to the Equal Opportunity Clause and the filing of required reports

The bidder X proposed subcontractor _____ hereby certifies that he/she has X has not _____ participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he/she has X has not _____ filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

JL Steel Reinforcing, LLC

By Michael C. Sproule

Title President

Date 2-11-02

NOTE: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. Generally only contracts or subcontracts of \$10,000 or under are exempt.

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U. S. Department of Labor.

CERTIFICATION OF NON-SEGREGATED FACILITIES

The Subcontractor certifies that it does not maintain or provide for its employees any segregated facility at any of its locations, and that it does not permit its employees to perform their services at any location where segregated facilities exist. The Subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this Contract. As used in this Certification, the term "segregated facilities" means any waiting rooms, work rooms, wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are in fact segregated on the basis of race, creed, color or national origin, because of habit, local custom or otherwise.

By Michael C. J. Pointe
Title President
JL Steel Reinforcing, LLC

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
 (See reverse for public burden disclosure.)

Approved by OMB
 0348-0046

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
<input type="checkbox"/> A. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:	
Congressional District, if known: 4c		
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services (including address if different from No. 10a) <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
Signature: <u>Michael C. LaPointe</u> Print Name: <u>Michael C. LaPointe</u> Title: <u>JL Steel Reinforcing, LLC</u> Telephone No.: <u>817 206 4474</u>		Date: <u>9-11-08</u>
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

**REQUIRED CONTRACT PROVISIONS
 FEDERAL-AID CONSTRUCTION CONTRACTS**

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ATTACHMENTS

A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate supervision and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

Section I, paragraph 2;
 Section IV, paragraphs 1, 2, 3, 4, and 7;
 Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. Selection of Labor: During the performance of this contract, the contractor shall not:

a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or

b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will

implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

I. General:

a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any

account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) the additional classification is utilized in the area by the construction industry;

(3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination;

(4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

e. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional

classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly rate equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

a. Apprentices:

(1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State

apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee

program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under a approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Apprentices and Trainees (Programs of the U.S. DOT):

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than

one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph

3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each apprentice, trainee, and helper) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all

may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and

similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

Notice to all Personnel engaged on Federal-Aid Highway Projects

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 92-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XL CERTIFICATION DEBARMENT, INELIGIBILITY AND EXCLUSION REGARDING SUSPENSION, VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions: (Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered

transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

2. Instructions for Certification - Lower Tier Covered Transactions: (Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

**Certification Regarding Debarment, Suspension,
 Ineligibility and Voluntary Exclusion—Lower Tier
 Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**XII. CERTIFICATION REGARDING USE OF
 CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any

Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-L11, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

SEP 25 2008



22 September 2008

J. L. Steel Reinforcing, LLC
Attn: Jeff Myers
2409 Minnis Drive
Fort Worth, Texas 76117

RE: Subcontract
Huey P. Long Bridge Widening (Westbank & Eastbank Approaches & Main
Bridge Deck Widening)
LADOT Project Nos. 005-10-0037, 006-01-0021, 006-02-0064, 006-25-0001,
006-30-0041, 063-03-0051 & 063-04-0035
Route: US-90
Jefferson Parish, Louisiana
Kiewit Joint Venture Job: 472-22055

Dear Mr. Myers:

Enclosed is your copy of the fully executed Subcontract for work your company is providing Kiewit Massman Traylor Constructors on the above referenced project.

If there are any questions, please don't hesitate to call (817) 337-7004, or you can e-mail me at walter.schmick@kiewit.com.

Sincerely,

KIEWIT MASSMAN TRAYLOR CONSTRUCTORS

W. C. SCHMICK, Jr.
Contracts Administrator

Enclosures:

cc: Shelly Semin (Kiewit Subcontracts)
David Gierkey (Project Contracts Administrator)

Kiewit Massman Traylor Constructors
13119 Old Denton Road
Fort Worth, Texas 76177
(817) 337-7000 (817) 337-7001 fax

